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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/330,860	06/11/1999	MICHAEL D. ELLIS	UV-69	9912

7590 12/02/2003
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1251 AVENUE OF THE AMERICAS
NEW YORK, NY 100201104

EXAMINER

GESESSE, TILAHUN

ART UNIT	PAPER NUMBER
2684	12

DATE MAILED: 12/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

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12

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Commissioner for Patents

Office Action Summary

Application No.

09/330,860

Applicant(s)

ELLIS, MICHAEL D.

Examiner

Tilahun B Gesesse

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-32, 61-64 and 92-95 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-32, 61-64 and 92-95 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 9/5/03 have been fully considered but they are not persuasive for the following reasons.

On page 76, second paragraph of response, applicant argued that Takahisa' 937 does not include musical program and any information about a given music program.

The examiner disagrees. Takahisa' 937 discloses a receiver 1900 includes a tuner A 1904 and a tuner B 1906 , may be tuned to the same station and tuner A is coupled to audio circuit 1905 for audio reproduction of received program material and tuner B 1906 is coupled to data decoder circuit 1907 (column 20, lines 28-45). Furthermore, Takahisa'937 discloses the data stream received by tuner B 1906 includes information on the type of program being transmitted not only by the station to which tuner B 1906 is currently tuned , but by all other stations within the listening area as well and displayed for the user consideration by the user interface (column 20, line 52-column 21 line 33, column 21 lines 45-52 and figure 19).

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view

of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 29-32, 61-64 and 92-95 are rejected under 35 U.S.C. 102(b) as being anticipated by Takahisa et al (5,812,937).

As to claim 29, 61, 92 Takahisa et al disclose a music distribution system (fig.1 and 1a) in which music is distributed over a plurality of music channels to a number of users for playing by their user music equipment(col.3 lines 45-60), wherein each music channel has an associated data stream containing information on a plurality of music programs (col.3 line 61-col.4 line 11), the system comprising: Takahisa et al disclose a circuit in the user music equipment (200) for obtaining a first music program carried on a first of the plurality of music program carried on a first of the plurality of music channels (1905) and for obtaining the music information on a second music program (1902) with the first music channel while the first music program is being played by the user music equipment ((column 20 lines 28-column 21 line 51 and figure 19). Takahisa et al disclose data streams associated with channel (105)(fig.19). Takahisa et al disclose an interactive music application (206 of fig.2) implemented at least in part on the user

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music equipment (col.7 line 43-col.8 line18), wherein the circuit is directed by the interactive (206) music application to obtain the music information on the second music program (data stream) and the music information on the second music program is displayed (300 of fig.3) by the user music equipment using the interactive music application while the first music program is being played by the user music equipment (col. 20 lines 45-col.21 line9 and fig.19). Takahisa et al disclose television (col.13 line 66-col.14 line 4).

As to claim 30,62,93 Takahisa et al disclose the music information on the second music program is displayed in a browse display (1000,1302,1701-1704,1902) by the user music equipment using the interactive music application while the first music program is being played by the user musical equipment (figs. 10,14,17 and 19).

As to claim 31-32, 63-64,94-95,Mankovitz discloses the music information on the second music program is displayed in a full music information screen (1000,1302,1701-1704,1902) by the user music equipment using the interactive music application (1002,1302,1902) while the first music program is being played by the user music equipment (figs.10,14,17 and 19).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 703-308-5873. The examiner can normally be reached on flex.

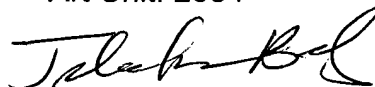
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-308-6306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

TBG

November 26, 2003

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NAY MAUNG
SUPERVISORY PATENT EXAMINER